

AMENDED IN SENATE MAY 31, 2012

AMENDED IN ASSEMBLY MAY 3, 2012

AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

AMENDED IN ASSEMBLY MARCH 19, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2009

Introduced by Assembly Member Galgiani

February 23, 2012

An act to ~~amend~~ *add* Section ~~104900~~ *of 120392.3 to, and to repeal Section 104900 of*, the Health and Safety Code, relating to communicable disease.

LEGISLATIVE COUNSEL'S DIGEST

AB 2009, as amended, Galgiani. Communicable disease: influenza vaccinations.

Under existing law, the State Department of Public Health administers various programs for the protection of public health. The department provides a biennial report to the Legislature on the immunization status of young children in California.

Existing law requires the State Department of Public Health to provide appropriate flu vaccine to local governmental or private nonprofit agencies at no charge in order that the agencies may provide the vaccine, at a minimal cost, at accessible locations in the order of priority first for all persons 60 years of age or older in this state and then to any other high-risk groups identified by the United States Public Health Service.

The department and the California Department of Aging are required to prepare, publish, and disseminate information regarding the availability of the vaccine and the effectiveness of the vaccine in protecting the health of older persons.

This bill would eliminate the priority order described above ~~and would, instead, require~~. *The bill would allow* the department to provide guidance to local agencies as to whether one or more population groups are to have priority for the flu vaccine offered through this program, as specified. The bill would exempt these provisions from the Administrative Procedure Act. *The bill would eliminate provisions requiring the vaccine to be administered by physicians and nurses, as specified.* The bill would make findings and declarations regarding the transmission of influenza by children to adults and the elderly.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:

3 (a) The federal Centers for Disease Control and Prevention
4 (CDC) recommend annual seasonal influenza vaccination for all
5 persons six months of age and older.

6 (b) Current law related to prioritization for influenza vaccines
7 is outdated and needs to be updated to reflect current CDC
8 recommendations.

9 (c) Children have the highest rates of influenza infection and
10 schoolaged children are the major vectors for influenza
11 transmission that spread the virus to adults and the elderly in the
12 community.

13 (d) Eligible low-income and uninsured children can access
14 vaccine at no cost through the federally funded Vaccines for
15 Children (VFC) Program.

16 SEC. 2. ~~Section 104900 of the Health and Safety Code is~~
17 ~~amended to read:~~

18 ~~104900. (a) The department shall provide appropriate flu~~
19 ~~vaccine to local governmental or private, nonprofit agencies at no~~
20 ~~charge in order that the agencies may provide the vaccine, at a~~
21 ~~minimal cost, at accessible locations. In administering this section,~~
22 ~~the department shall provide guidance to local agencies as to~~

1 whether one or more population groups shall have priority for the
2 flu vaccine offered through this program. In developing this
3 guidance, the department shall consider the influenza
4 recommendations of the federal Centers for Disease Control and
5 Prevention or other criteria in order to ensure that the vaccination
6 program is efficient and effective in meeting public health goals.
7 Any guidance issued pursuant to this subdivision shall be exempt
8 from the rulemaking provisions of the Administrative Procedure
9 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
10 Division 3 of Title 2 of the Government Code).

11 (b) The department may provide appropriate pneumonia vaccine
12 to local governmental or private nonprofit agencies at no charge
13 in order that the agencies may provide the vaccine, at a minimal
14 cost, at accessible locations for groups identified as high risk by
15 the United States Public Health Service.

16 (c) The program shall be designed to use voluntary assistance
17 from public or private sectors in administering the vaccines.
18 However, local governmental or private, nonprofit agencies may
19 charge and retain a fee not exceeding two dollars (\$2) per person
20 to offset administrative operating costs.

21 (d) Except when the department determines that it is not feasible
22 to use federal funds due to excessive administrative costs, the
23 department shall seek and use available federal funds to the
24 maximum extent possible for the cost of the vaccine, the cost of
25 administering the vaccine, and the minimal fee charged under this
26 section, including reimbursement under the Medi-Cal program for
27 persons eligible therefor to the extent permitted by federal law.

28 (e) Administration of the vaccine shall be performed by a
29 physician, a registered nurse, or a licensed vocational nurse acting
30 within the scope of their professional practice acts. The physician
31 under whose direction the registered nurse or a licensed vocational
32 nurse is acting shall require the nurse to satisfactorily demonstrate
33 familiarity with (1) contraindication for the administration of these
34 immunizing agents, (2) treatment of possible anaphylactic
35 reactions, and (3) the administration of treatment and reactions to
36 these immunizing agents.

37 (f) A private, nonprofit volunteer agency whose involvement
38 with an immunization program governed by this section is limited
39 to the provision of a clinic site or promotional and logistical support
40 pursuant to subdivision (c), or any employee or member thereof,

1 shall not be liable for any injury caused by an act or omission in
2 the administration of the vaccine or other immunizing agent to a
3 person 60 years of age or older or to members of high-risk groups
4 identified by the United States Public Health Service, if the
5 immunization is performed pursuant to this section in conformity
6 with applicable federal, state, or local governmental standards and
7 the act or omission does not constitute willful misconduct or gross
8 negligence. As used in this subdivision, “injury” includes the
9 residual effects of the vaccine or other immunizing agent. It is the
10 intent of the Legislature in adding this subdivision to affect only
11 the liability of private, nonprofit volunteer agencies and their
12 members that are not health facilities, as defined in Section 1250.

13 (g) This section shall not be construed to require physical
14 presence of a directing or supervising physician, or the examination
15 by a physician of persons to be tested or immunized.

16 SEC. 2. Section 104900 of the Health and Safety Code is
17 repealed.

18 104900. (a) The department shall provide appropriate flu
19 vaccine to local governmental or private, nonprofit agencies at no
20 charge in order that the agencies may provide the vaccine, at a
21 minimal cost, at accessible locations in the order of priority first,
22 for all persons 60 years of age or older in this state and then to any
23 other high-risk groups identified by the United States Public Health
24 Service. The department and the State Department of Aging shall
25 prepare, publish, and disseminate information regarding the
26 availability of the vaccine and the effectiveness of the vaccine in
27 protecting the health of older persons.

28 (b) The department may provide appropriate pneumonia vaccine
29 to local governmental or private, nonprofit agencies at no charge
30 in order that the agencies may provide the vaccine, at a minimal
31 cost, at accessible locations for groups identified as high risk by
32 the United States Public Health Service.

33 (c) The program shall be designed to utilize voluntary assistance
34 from public or private sectors in administering the vaccines.
35 However, local governmental or private, nonprofit agencies may
36 charge and retain a fee not exceeding two dollars (\$2) per person
37 to offset administrative operating costs.

38 (d) Except when the department determines that it is not feasible
39 to utilize federal funds due to excessive administrative costs, the
40 department shall seek and utilize available federal funds to the

1 maximum extent possible for the cost of the vaccine, the cost of
2 administering the vaccine and the minimal fee charged under this
3 section, including reimbursement under the Medi-Cal program for
4 persons eligible therefor to the extent permitted by federal law.

5 (e) Administration of the vaccine shall be performed either by
6 a physician, a registered nurse, or a licensed vocational nurse acting
7 within the scope of their professional practice acts. The physician
8 under whose direction the registered nurse or a licensed vocational
9 nurse is acting shall require the nurse to satisfactorily demonstrate
10 familiarity with (1) contraindication for the administration of such
11 immunizing agents, (2) treatment of possible anaphylactic
12 reactions, and (3) the administration of treatment, and reactions
13 to such immunizing agents.

14 (f) No private, nonprofit volunteer agency whose involvement
15 with an immunization program governed by this section is limited
16 to the provision of a clinic site or promotional and logistical support
17 pursuant to subdivision (e), or any employee or member thereof,
18 shall be liable for any injury caused by an act or omission in the
19 administration of the vaccine or other immunizing agent to a person
20 60 years of age or older or to members of high-risk groups
21 identified by the United States Public Health Service, if the
22 immunization is performed pursuant to this section in conformity
23 with applicable federal, state, or local governmental standards and
24 the act or omission does not constitute willful misconduct or gross
25 negligence. As used in this subdivision, "injury" includes the
26 residual effects of the vaccine or other immunizing agent. It is the
27 intent of the Legislature in adding this subdivision to affect only
28 the liability of private, nonprofit volunteer agencies and their
29 members that are not health facilities as defined in Section 1250.

30 (g) Nothing in this section shall be construed to require physical
31 presence of a directing or supervising physician, or the examination
32 by a physician of persons to be tested or immunized.

33 *SEC. 3. Section 120392.3 is added to the Health and Safety*
34 *Code, to read:*

35 *120392.3. (a) The department shall provide appropriate flu*
36 *vaccine to local governmental or private, nonprofit agencies at*
37 *no charge in order that the agencies may provide the vaccine, at*
38 *a minimal cost, at accessible locations. The department and the*
39 *California Department of Aging shall prepare, publish, and*
40 *disseminate information regarding the availability of the vaccine*

1 *and the effectiveness of the vaccine in protecting the health of*
2 *older persons.*

3 *(b) In administering this section, the department may provide*
4 *guidance to local agencies as to whether one or more population*
5 *groups shall have priority for the flu vaccine offered through this*
6 *program. In developing this guidance, the department shall*
7 *consider the influenza recommendations of the federal Centers for*
8 *Disease Control and Prevention's Advisory Committee on*
9 *Immunization Practices or other criteria in order to ensure that*
10 *the vaccination program is efficient and effective in meeting public*
11 *health goals. Any guidance issued pursuant to this subdivision*
12 *shall be exempt from the rulemaking provisions of the*
13 *Administrative Procedure Act (Chapter 3.5 (commencing with*
14 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
15 *Code).*

16 *(c) The department may provide appropriate pneumococcal*
17 *vaccine to local governmental or private, nonprofit agencies at*
18 *no charge in order that the agencies may provide the vaccine, at*
19 *a minimal cost, at accessible locations for groups identified as*
20 *high risk by the United States Public Health Service.*

21 *(d) The program shall be designed to use voluntary assistance*
22 *from public or private sectors in administering the vaccines.*
23 *However, local governmental or private, nonprofit agencies may*
24 *charge and retain a fee not exceeding two dollars (\$2) per person*
25 *to offset administrative operating costs.*

26 *(e) Except when the department determines that it is not feasible*
27 *to use federal funds due to excessive administrative costs, the*
28 *department shall seek and use available federal funds to the*
29 *maximum extent possible for the cost of the vaccine, the cost of*
30 *administering the vaccine, and the minimal fee charged under this*
31 *section, including reimbursement under the Medi-Cal program*
32 *for persons eligible therefor to the extent permitted by federal law.*

33 *(f) A private, nonprofit volunteer agency whose involvement*
34 *with an immunization program governed by this section is limited*
35 *to the provision of a clinic site or promotional and logistical*
36 *support pursuant to subdivision (c), or any employee or member*
37 *thereof, shall not be liable for any injury caused by an act or*
38 *omission in the administration of the vaccine or other immunizing*
39 *agent to a person 60 years of age or older or to members of*
40 *high-risk groups identified by the United States Public Health*

1 *Service, if the immunization is performed pursuant to this section*
2 *in conformity with applicable federal, state, or local governmental*
3 *standards and the act or omission does not constitute willful*
4 *misconduct or gross negligence. As used in this subdivision,*
5 *“injury” includes the residual effects of the vaccine or other*
6 *immunizing agent. It is the intent of the Legislature in adding this*
7 *subdivision to affect only the liability of private, nonprofit volunteer*
8 *agencies and their members that are not health facilities, as defined*
9 *in Section 1250.*

10 *(g) This section shall not be construed to require the physical*
11 *presence of a directing or supervising physician, or the*
12 *examination by a physician of persons to be tested or immunized.*